



ENTERED
11/10/2009

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	Chapter 11
RIGHT OF WAY MAINTENANCE	§	
EQUIPMENT COMPANY	§	
	§	
DEBTOR	§	
	§	

**OMNIBUS AGREED ORDER RESOLVING DOCKET NUMBERS 20, 21, 23, 30,
31, 32, 41, 42, 43, 44, 49, and 50**

On October 23, 2009, the Court conducted a hearing on the pleadings referred to below. The parties represented at the hearing were the Debtor, Right of Way Maintenance Equipment Company (“ROWMEC”), The Bandas Law Firm, P.C., Christopher A. Bandas, Moulton & Meyer, L.L.P. and Jeffrey D. Meyer (collectively “Bandas Defendants”), Robert C. Curfiss (“Curfiss”), The Shackelford Law Firm and Patricia A. Shackelford (“Shackelford”), Gyro-Trac, Inc. and Gyro Trac (USA), Inc. (“Gyro”) and Cambridge Management (“Cambridge”). At the conclusion of the hearing, ROWMEC, the Bandas Defendants, and Shackelford announced various agreements regarding these matters. Based on this announcement, it is

ORDERED that

1. ROWMEC’S Expedited Motion for Use of Cash Collateral (Doc. 20) is withdrawn. This withdrawal resolves the objections to this Motion filed by the Bandas Defendants at Doc. Nos. 21, 23, 30, and 32, Shackelford at Doc. 23 and 31.
2. The Bandas Defendants Emergency Motion to Dismiss, Abstain or Suspend under 11 U.S.C. §§305 and 1112(b) and Motion to Remand (Doc. 41) is granted as follows:

- a. The Court shall abstain from hearing the adversary proceeding styled, *ROWMEC v. Cambridge, the Bandas Defendants, Shackelford, Gyro, Jackson Walker, LLP and Curfiss* under Adv. No. 09-3303 in its entirety including the Motion for Turnover which was withdrawn during the October 23, 2009 hearing, except for (i) granting the Motion for Summary Judgment filed by Gyro; (ii) granting the motion to dismiss, without prejudice, Jackson Walker, LLP; (iii) granting the motion to dismiss, without prejudice, of Shackelford; and (iv) granting the motion to dismiss Cambridge from Adv. No. 09-3303. After these orders are entered Adv. No. 09-3303 shall be closed.
- b. ROWMEC and the Bandas Defendants shall file a joint motion to remand to the 113th Judicial District Court of Harris County, Texas (the "State Court"), the case styled the Bandas Defendants v. ROWMEC, originally filed in the State Court under Cause No 2009-1433 (the "Harris County Lawsuit") which was removed to Federal District Court under Civil Action No. 09-cv-3303. The funds deposited in the registry of the State Court shall remain there pending a determination by the State Court or a jury with respect to the distribution thereof, and the State Court or a jury shall otherwise rule on all issues raised in that case. The parties to the State Court case shall agree on a revised docket control order, subject to approval of the State Court, containing the following: (a) a deadline no sooner than January 15, 2010, for joinder of additional parties, including Curfiss, (b) expert designations to be made by parties seeking affirmative relief no sooner than May 15, 2010, (c) expert designations to be made by all other parties no sooner than June 15, 2010, (d) discovery to be completed no sooner than July 31, 2010, (e) a hearing on the pending no evidence motion on the issues of expenses no earlier than 30 days after the Bandas Parties produce documents and a witness(es) to support such expenses, (f) a hearing on the pending no evidence motion for partial summary judgment on the malpractice issue no earlier than August 15, 2010, (g) a hearing on a motion and cross-motion for summary judgment on the reverse contingency issue to be heard at any time in accordance with the TRCP; (h) any and all other motions for summary judgment must be filed no later than June 15, 2010 and heard no sooner than July 15, 2010, (h) a deadline for amendments to pleadings of 30 days before trial where all parties reserve their right to object thereto, and (i) with a trial date no sooner than September 15, 2010.
- c. The deadline for ROWMEC to respond to any request for disclosures in the Harris County Lawsuit is extended to 45 days after the date this Order is entered.

d. This portion of the order resolves the objections at Doc. Nos. 42, 44 and 50.

3. The Bandas Defendants Joint Motion for Relief from Stay to Proceed in State Court Litigation (Doc. 43) is granted to permit all parties in the Harris County Lawsuit to fully proceed to summary judgment, bench trial or jury trial, on (a) all claims, counterclaims, cross claims and third party claims currently asserted or to be asserted in the Harris County Lawsuit, and (b) collection or distribution of the proceeds held in the registry of that Court. This order resolves the objection at Doc. No. 49.

4. The entry of this order shall not be the basis for any claim or argument before any court by the Bandas Parties that the Bankruptcy Court has expressed any views on the merits of the various claims, counterclaims, cross claims or third party claims abstained from or remanded to the 113th Judicial District Court, the merits of the abstention as to Adversary 09-03303, or the merits of the removal and remand of the Harris County Lawsuit.

5. All other relief requested is denied.

DATED:

NOV 09 2009

UNITED STATES BANKRUPTCY JUDGE

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AGREED AS TO FORM AND SUBSTANCE

WEYCER, KAPLAN, PULASKI & ZUBER, PC

By: 

Edward L. Rothberg
State Bar No. 17313990
11 Greenway Plaza, Suite 1400
Houston, TX 77046
Telephone: (713) 961-9045
Facsimile: (713) 961-5341

ATTORNEYS FOR BANDAS DEFENDANTS

PENDERGRAFT & SIMON

By: 

Leonard H. Simon
State Bar No.
2777 Allen Parkway
Houston, TX 77019
Telephone: (713) 737-8207
Facsimile: (832) 202-2810

ATTORNEYS FOR DEBTOR

CRUSE, SCOTT, HENDERSON & ALLEN, L.L.P.

By: 

Billy Shepherd
State Bar No.
Lauren Held Harris
2777 Allen Parkway, 7th Floor
Houston, TX 77019
Telephone: (713) 650-6600
Facsimile: (713) 650-1720

ATTORNEYS FOR SHACKELFORD